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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,201	08/22/2006	Jacques Thomasset	2590-163	5564
23117 7590 11/24/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
AUGHENBAUGH, WALTER				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,201

Applicant(s)

THOMASSET, JACQUES

Examiner

WALTER B. AUGHENBAUGH

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2009 and 09 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notes of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 13, 2009 has been entered.

Acknowledgement of Applicant's Amendments

2. Applicant's amendments made in claims 1, 5 and 6 in the Amendment filed October 13, 2009 have been received and considered by Examiner.
3. New claims 13-18 presented in the Amendment filed October 13, 2009 have been received and considered by Examiner.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5, 6 and 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to independent claim 13, the structure Applicant intends to recite by "a second thermoplastic resin layer, which is imprisoned in the first layer except for, of surface area at least equal to that of said faces" cannot be ascertained: this recitation appears to be incomplete ("...except for, of surface area..."). Clarification and/or correction is requested.

The structure Applicant intends to recite in claims 5 and 6 cannot be ascertained due to the dependence of these claims on claim 13 (see basis of rejection in regard to claim 13 provided above). Furthermore, the language of claim 5 and 6 appears to be contradictory to the language of claim 13. If the second layer is “imprisoned in the first layer” (claim 13), how can the “free end[s]” of the second layer be “in contact with an outer side of the structure”? Appropriate correction (or clarification) is required.

In regard to independent claim 14, the structure Applicant intends to recite by “forming a dose, prior to any compression molding” (lines 1-2) cannot be ascertained. It cannot be ascertained what structure Applicant intends to recite by “dose”. While dose appears to recite nothing more than “multilayered structure” (based on page 4, lines 33-34 and Fig. 11-15), it is not entirely clear this is all “dose” is intended to recite, since it does not appear that “dose” is defined in Applicant’s specification (and “dose” is used, instead of, for example, multilayered structure). Clarification and/or correction is requested.

Furthermore, the structure Applicant intends to recite by “of the dose, prior to any compression molding” (lines 4-5 and 6-7) cannot be ascertained, for the same reasons regarding the recitation “forming a dose, prior to any compression molding”. Furthermore, the phrase “prior to any compression molding” (lines 1-2, 4-5 and 6-7) renders the claim indefinite because it cannot be ascertained if Applicant intends to positively recite any structural limitations of the final product or not, and if so, it is unclear what this structure would be. Clarification and/or correction is requested.

Claims 15-18 are also rejected due to their dependence on claim 14.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-7 and 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishimura et al. (USPN 5,296,278).

In regard to independent claims 1, 13 and 14, Nishimura et al. teach a synthetic resin multilayer structure having structure that corresponds to the structure claimed in claim 1 (air bag comprising a woven polyester fabric that is impregnated with resin: see, for example, col. 4, lines 21-42 and col. 3, lines 50-54). Polyester is a thermoplastic resin. The impregnating resin of Nishimura et al. corresponds to the claimed first resin layer. Each fiber of the woven fabric independently corresponds to the claimed second resin layer which is imprisoned in the first layer: each fiber of the woven fabric forms a zigzag-shaped double fold because the fabric is a woven fabric. The interweaving of the fibers results in each fiber having a zigzag-shaped double fold.

In further regard to independent claim 13, claim 13 cannot be fully treated on its merits because it cannot be ascertained what structure Applicant intends to recite by “a second thermoplastic resin layer, which is imprisoned in the first layer except for, of surface area at least equal to that of said faces”. See 35 U.S.C. 112, second paragraph, rejection of claim 14 made of record in this Office Action (and see Advisory Action mailed October 28, 2009).

In further regard to independent claim 14, it cannot be ascertained what structure “dose” recites, and the recitations “forming a dose, prior to any compression molding” (lines 1-2) and “of the dose, prior to any compression molding” (lines 4-5 and 6-7) appear to be directed to an intermediate product of the claimed final product, as opposed to of the claimed final product itself, so it is unclear whether or not these recitations recite anything in regard to the final product. See 35 U.S.C. 112, second paragraph, rejection of claim 14 made of record in this Office Action. While dose appears to recite nothing more than “multilayered structure” (see page 4, lines 33-34 and Fig. 11-15), it is not entirely clear this is all “dose” is intended to recite, since it does not appear that “dose” is explicitly defined in Applicant’s specification (and “dose” is used, instead of, for example, multilayered structure). Nishimura et al. teach a multilayered structure, so it appears that the structure that would be implied by “dose” is met by Nishimura et al.

In regard to claims 2 and 15, all articles have at least one axis of symmetry. Air bags comprise an axis of symmetry.

In regard to claims 3 and 16, the airbag of Nishimura et al. comprises a central orifice passing through the structure. See, for example, col. 4, lines 21-32.

In regard to claims 4 and 17, the portion of the airbag that is adjacent to the opening for inflation (see, for example, col. 4, lines 21-32) corresponds to the claimed tube shoulder.

In regard to claim 5, a free end of the second layer of the airbag of Nishimura et al. is in contact with an outer side of the structure at a level of one of the faces at the end of the fabric composite that is at the opening for inflation.

In regard to claim 6, the free end of the second layer is in contact with the outer side of the structure at the level of the top face, and the other end is in contact with the outer side of the structure at the level of the bottom face at opposite sides of the end of the fabric composite that is at the opening for inflation.

In regard to claims 7 and 18, the second layer comprises a layer of barrier resin (each fiber of the woven fabric independently corresponds to the layer of barrier resin: polyester is a barrier resin, see, for example, col. 2, lines 36-40). The impregnating resin above the fibers corresponds to one of the claimed adhesive layers, and the impregnating resin below the fibers corresponds to the other claimed adhesive layer. The impregnating resin is adhesive resin because it adheres to the fibers of the fabric.

Response to Arguments

8. Applicant's arguments regarding the objection of claims 5 and 6 made of record in the previous Office Action mailed June 8, 2009 have been fully considered but are not persuasive.

Applicant states that claim 13 addresses the objection to claim 5 and 6 (claim 5 was amended to depend on claim 13), but Applicant has not explained how these amendments overcome the objection, and it is not clear how these amendments overcome the objection. This is in part because it is not clear what "...which is imprisoned in the first layer except for , of surface area..." (lines 5-6 of newly presented claim 13) is intended to recite. Clarification and/or correction is requested. Note that this basis for objection has been included in the rejection 35 U.S.C. 112, second paragraph, rejection made of record in this Office Action due to Applicant's amendment of claims 5 and 6 making them dependent upon claim 13 (which appears to be incomplete).

9. Applicant's arguments regarding the 35 U.S.C. 102 rejection of the claims, as they apply to the updated rejection, have been fully considered but are not persuasive.

Applicant appears to argue that Nishimura does not teach a thermoplastic resin layer. However, polyester is a thermoplastic resin, so each fiber of polyester woven fabric is a thermoplastic resin layer. Applicant does not acknowledge in the after-final arguments that the fabric is a polyester fabric. Applicant states "[r]esin is not a woven fabric sheet". While a sample of resin may not be a woven fabric sheet, each fiber of polyester fabric is a thermoplastic resin layer, so each fiber of the polyester woven fabric of Nishimura corresponds to the claimed second resin layer.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 7:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Walter B Aughenbaugh /

Examiner, Art Unit 1794

11/21/09